

DEPARTMENT OF CALIFORNIA HIGHWAY PATROL

PROPOSED TEXT

TITLE 13, CALIFORNIA CODE OF REGULATIONS, DIVISION 2, CHAPTER 6.5
AMEND ARTICLE 6, SECTION 1233

SAFETY COMPLIANCE RATINGS (CHP-R-11-03)

Existing text:Times New Roman 12 point font.
Additions:Times New Roman 12 point font with single underline.
Deletions:~~Times New Roman 12 point font with strikethrough~~

Title 13, California Code of Regulations, Chapter 6.5. Motor Carrier Safety Article 6. Carrier Requirements

§ 1233. Safety Compliance Ratings.

(a) Definitions of Safety Compliance Ratings. Compliance ratings shall have the following meanings:

(1) Satisfactory. A satisfactory rating means compliance with applicable laws and regulations or only minor discrepancies in statutory or regulatory requirements were noted, and overall compliance was within reasonable bounds.

(2) Unsatisfactory. An unsatisfactory rating means a continued disregard of statutory or regulatory requirements, a finding of numerous violations, a finding of serious violations that adversely affect the safe operation of vehicles, or a lack of compliance with hazardous materials shipping or carriage requirements.

(3) Conditional. A conditional rating means there was a previous rating of “unsatisfactory;” and the carrier, terminal, facility or shipper has been reinspected and compliance is no longer necessarily “unsatisfactory,” but that actual compliance cannot be determined. A follow-up inspection will be conducted to determine compliance.

(b) Inspections by the Department.

(1) Motor carriers. Motor carriers are inspected by the Department at their principal places of business and assigned safety compliance ratings which reflect each motor carrier's overall compliance with the requirements of Vehicle Code Section 34520.

(2) Motor carrier terminals and maintenance facilities. Motor carrier terminals and maintenance facilities are inspected by the Department pursuant to Vehicle Code Sections 34501(a)(3)(4), 34501(c), and 34501.12(d) and assigned safety compliance ratings which reflect each terminal's overall compliance with the laws and regulations governing drivers' hours of service, vehicle condition, preventive maintenance practices, hazardous materials carriage, and records required by statute or regulation.

(3) Hazardous materials shippers. Hazardous materials shippers are inspected by the Department and are assigned safety compliance ratings which reflect each shipper's overall compliance with laws and regulations governing the packaging, description, marking, labeling, offering and other requirements of the United States Department of Transportation governing the transportation of hazardous materials, including any exceptions contained in state law or regulation.

(c) Assignment of Safety Compliance Ratings. The Department's evaluation of the motor carrier's, terminal's, or hazardous materials shipper's potential for overall safety shall be the final determining factor in the rating assigned.

(d) Rating Review. Any motor carrier, or shipper who receives an unsatisfactory rating and believes the rating is not justified, may, within five calendar days following the assignment of the rating, request a review of the rating by contacting the Department at the telephone number indicated on the inspection report. The sole purpose of the rating review is to determine whether the inspection and its findings are consistent with laws, regulations, and Department policy in effect at the time of the inspection. A rating review is not for the purpose of evaluating any corrective actions taken by the carrier or shipper since the time of the inspection.

(e) Consistent Failure. For the purposes of initiating civil, criminal, or administrative action against any motor carrier, permit, operating authority, or license, and as used in Sections 34505.1, 34505.6, 34505.7, and 34623 of the Vehicle Code, a finding of consistent failure shall be made following the assignment of three or more consecutive unsatisfactory safety compliance ratings as the result of any inspection described in Subsection (b).

(f) Imminent Danger. For the purposes of initiating civil, criminal, or administrative action against any motor carrier, permit, operating authority, or license, and as used in Sections 34505.1, 34505.6, 34505.7, and 34623 of the Vehicle Code, a finding of imminent danger shall be made as the result of any inspection described in Subsection (b), under any of the following conditions:

(1) Unsafe mechanical condition of commercial motor vehicles resulting in more than one-half of the inspection sample being placed out of service for conditions meeting the Commercial Vehicle Safety Alliance North American Standard Out-of-Service Criteria incorporated by Section 1239.

(2) A motor carrier requiring or permitting any driver to exceed the maximum allowable driving time, or make false reports in conjunction with any duty activities, exceeding ten percent of the total days audited.

(3) A motor carrier allowing, permitting, requiring, or authorizing a driver to operate a commercial motor vehicle when the driver's license status prohibits such operation.

(4) Lack of compliance with any hazardous materials requirement which jeopardizes public or environmental safety, or hinders prompt action by emergency response personnel.

(5) A motor carrier allowing a driver to perform a safety sensitive function in violation of Title 49, Code of Federal Regulations, as follows:

(A) A driver performing a safety sensitive function or a motor carrier permitting a driver to perform a safety sensitive function following a test result of 0.04 blood alcohol concentration or greater, when the driver has used alcohol while on duty, or when the driver has used alcohol within four hours prior to going on duty.

(B) A driver performing a safety sensitive function or a motor carrier permitting a driver to perform a safety sensitive function, after the driver has refused to submit to any controlled substances or alcohol test.

(C) A driver performing a safety sensitive function or a motor carrier permitting a driver to perform a safety sensitive function after the driver has used a controlled substance, has a verified positive test result, or has adulterated or substituted a test specimen.

~~(e)~~ (g) Carrier Responsibility for Disclosure of Safety Compliance Ratings.

(1) A motor carrier contracting to transport passengers in a bus shall give notice to the user of the carrier's most recent safety compliance rating.

(2) A motor carrier transporting school pupils to or from school activities in a school bus or school pupil activity bus (SPAB) shall give notice to the school district superintendent of the carrier's most recent safety compliance rating.

(3) Notice may be given by posting the safety compliance rating in the public area of the carrier's terminal or principal place of business, or by publishing the rating in the local news media.

(4) The carrier shall provide its latest rating upon any request from the public whether received in writing, in person, or by telephone. Safety compliance ratings are also available from the Department.

Note: Authority cited: Sections 31401, 34501, 34501.5, 34508, and 34520 Vehicle Code.

Reference: Sections 31401, 34501, 34501.5, 34505.1, 34505.6, 34505.7, 34508, 34520, and 34623 Vehicle Code.